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COURT OF APPEAL, FOURTH APPELLATE DISTRICT

DIVISION ONE

STATE OF CALIFORNIA

THE PEOPLE,

Plaintiff and Respondent,

v.

OTILIO LOPEZ RAMIREZ,

Defendant and Appellant.

D074341

(Super. Ct. No. SCN383067)

APPEAL from a judgment of the Superior Court of San Diego County, Robert J. Kearney, Judge. Affirmed.

Lindsey M. Ball, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

A jury convicted Otilio Lopez Ramirez of one count of driving under the influence of alcohol (Veh. Code,¹ § 23152, subd. (a); Count 1) and driving with a measurable blood alcohol at or above 0.08 percent by weight (§ 23152, subd. (b); Count 2). The jury

¹ All further statutory references are to the Vehicle Code unless otherwise specified.

found true Ramirez's blood alcohol was 0.15 percent by weight (§ 23578). It was also established that Ramirez had three prison priors (Pen. Code, § 667.5, subd. (b)).

Ramirez was sentenced to prison for a term of six years. Ramirez filed a timely notice of appeal.

Appellate counsel has filed a brief pursuant to *People v. Wende* (1979) 25 Cal.3d 436 (*Wende*), indicating she has been unable to identify any arguable issue for reversal of appeal. We offered Ramirez the opportunity to file his own brief on appeal, but he has not responded.

STATEMENT OF THE FACTS

At about 2:30 in the afternoon, Marian M. heard a crash outside her house. She went out to investigate and found her fence had been damaged. She saw Ramirez's car parked down the street. Marian walked to Ramirez's car. She found him trying to change a tire. He appeared intoxicated and because of a language barrier, she could not communicate with him. She returned to her home and called police.

When an officer arrived, he contacted Ramirez who admitted he had been driving when he hit the fence. Ramirez said he had consumed three beers.

The parties stipulated Ramirez submitted to a Preliminary Alcohol Screening ("PAS") test; the result of which was .223 percent by weight. The parties did not dispute Ramirez's level of intoxication.

DISCUSSION

As we have noted, appellate counsel has filed a brief pursuant to *Wende* and asks this court to review the record for error. In compliance with *Anders v. California* (1967)

386 U.S. 738 (*Anders*), counsel has submitted the following possible, but not arguable, issues for our consideration during our review of the record for error: 1) Whether Ramirez was improperly questioned in violation of *Miranda v. Arizona* (1966) 384 U.S. 436; and 2) Whether the trial court erred in admitting the prior convictions for potential impeachment.

We have reviewed the entire record pursuant to *Wende* and *Anders*. We have not discovered any arguable issue for reversal on appeal. Competent counsel has represented Ramirez on this appeal.

DISPOSITION

The judgment is affirmed.

HUFFMAN, Acting P. J.

WE CONCUR:

AARON, J.

GUERRERO, J.